

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

BRODERICK DEROYCE BROWN, #1742804 §

VS. § CIVIL ACTION NO. 6:11cv710  
DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

The above-entitled and numbered motion to vacate, set aside or correct a federal sentence pursuant to 28 U.S.C. § 2254 was heretofore referred to United States Magistrate Judge John D. Love. The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Petitioner has filed objections.

Having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Petitioner's objections are without merit. Specifically, Petitioner admits that he has not exhausted his claims before the state court and contends that he has filed a new state application for writ of habeas corpus in order to do so. Even if he has, that application remains pending and he has not exhausted his claims. His objections are therefore without merit. It is therefore

**ORDERED** that Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED** and the case is **DISMISSED** without prejudice. A certificate of appealability is **DENIED**. All motions by either party not previously ruled on are hereby **DENIED**.

**So ORDERED and SIGNED this 31st day of October, 2012.**



LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE